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Crl.R.C.No.2158 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 22.12.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR**

**Crl.R.C.No.2158 of 2023**

P.Rayin

... Petitioner

Vs.

The Sub Divisional Magistrate  
And Revenue Divisional Officer (i/c),  
Gudalur,  
The Nilgiris District.

... Respondent

**Prayer:** Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order dated 12.12.2023 in R.C.B1/666/2019 by the Sub-Divisional Magistrate, Gudalur, The Nilgiris District.

For Petitioner : Mr.R.John Sathyan  
Senior Counsel  
for Mr.Meiyappan Mohan

For Respondent : Mr.A.Damodaran  
Additional Public Prosecutor



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## ORDER

This Criminal Revision Petition is filed to set aside the order dated 12.12.2023 in R.C.B1/666/2019 by the Sub-Divisional Magistrate, Gudalur, The Nilgiris District.

2.This Court by order, dated 18.12.2023 passed the following order:

*“The petitioner on the impunged order passed by the respondent has been directed to immediately close the Thar Plant run by M/s.P.Rayin Civil and Conveyance Contractor (PRCC) Devala, Poker Colony, Devala P.O, The Nilgiris.*

*2. The learned Senior counsel appearing for the petitioner submitted that this impugned order on the face of it, will not stand in the scrutiny of law for the reason that under Section 133 of Cr.PC, a show cause notice has to be issued and time limit has to be fixed for complying with the removal of nuisance. In the absence of the removal of nuisance and violation of the show cause notice, if the nuisance continues and thereafter, the prohibitory order shall be passed.*



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3. *The learned Additional Public Prosecutor appearing on behalf of the respondent submitted that the impugned order has been passed by the Officer at Nilgiris and he seeks time to get the records and go through the same and to file his counter affidavit.*

4. *In this case, no such procedure has been followed and further the order has been passed for the reason that agitation and protest were made by the the general public and creating frequent law and order and therefore, the prohibitory order has been passed under Section 133 of Cr.PC. Section 133 of Cr.PC is something different and not for compliance of law and order issues.*

5. *Post this case on 21.12.2023. In the meantime, the impugned order shall not be acted upon. The respondent is directed to file counter affidavit by then.”*

3.In continuation and conjunction with the above order, dated 18.12.2023, this Court is passing the following order.



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4.The learned Additional Public Prosecutor appearing for the respondent filed counter of the Revenue Divisional Officer, Gudalur, The Nilgris. The factual narration found in the counter is about the earlier Writ Petitions in W.P.Nos.1207 & 2483 of 2023 filed by one Ramanujam, S/o.Ganapathy for non action of the Tamil Nadu Pollution Control Board and for the petitioner hot mix plant causing health hazards. Added to it, public of the Poker Colony made agitations on 08.12.2023 and there was road roka and thereafter, a case in Crime Nos.247 & 248 of 2023 came to be registered by the Inspector of Police, Devala Police Station. The negotiation with the agitators yielded no result since the villagers were adamant. On 09.12.2023, the agitators agitated before the Village Administrative Office. Again on 12.12.2023, agitation continued, shops closed in the area and all political parties joined the agitation supporting the colony people in which 82 persons including 22 women participated. The Tahsildar gave report on 12.12.2023 and thereafter, the impugned order passed by the respondent. It is not a day affair, the sustained agitation and the adamant nature of the



petitioner leads to a situation for issuance of order to remove nuisance. He further submitted that the Tahsildar addressing the Pollution Control Board, Udhagamandalam to verify whether the petitioner plant is running in compliance with the rules and regulations and in the meanwhile, initiation of action against the petitioner invoking 133 Cr.P.C., cannot be faulted since the issues are separate. Hence, he sought for dismissal of the revision.

5.The learned Senior Counsel for the petitioner submitted that the factual aspects which have been narrated in the counter, already stated in the petition with supporting documents. The issue herein is that whether the show cause notice issued and whether any time line fixed in the order, after getting explanation, in the event of explanation being unsatisfactory, conditional order can be passed. In this case, there is no answer in the counter with regard to issuance of notice or any time line given before issuance of the conditional order. Further, there is nothing to show that the petitioner company violated any rules and regulations. The petitioner company is running the plant for quite sometime only after getting permission and clearance from the statutory authorities and the Tamil Nadu



Pollution Control Board. The Tamil Nadu Pollution Control Board clearance granted to the petitioner and he is armed with license. Some persons have been motivated and engaged for stalling the functioning of the petitioner company, for ulterior purpose, now innocent public are used to create trouble. The authorities failed to look into the schemers of vested interest people on the other hand projected as though the orders passed, due to law and order issues. He further submitted that invoking Section 133 Cr.P.C., for law and order is not permitted and the impugned order is not sustainable.

6.Considering the submissions and on perusal of the materials, it is seen that the impugned order invoking Section 133 Cr.P.C., passing conditional order not preceded with any notice or any time line. In this case, it is not followed. Further, Section 133 Cr.P.C., cannot be invoked citing law and order issues. Thus on these two grounds, this Court finds that the issuance of the impugned order is not sustainable. Hence, liable to be set aside.



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7. In view of the above, the impugned order, dated 12.12.2023 in R.C.B1/666/2019 by the Sub-Divisional Magistrate, Gudalur, The Nilgiris District is set aside. Accordingly, this Criminal Revision Case is allowed.

**22.12.2023**

Index : Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No

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Note: Issue Order Copy on 22.12.2023.  
To

1. The Sub Divisional Magistrate  
And Revenue Divisional Officer (i/c),  
Gudalur,  
The Nilgiris District.
2. The Public Prosecutor,  
High Court, Madras.



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**M.NIRMAL KUMAR, J.**

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